IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.20135 of 2000

Between:

Kandukuri Shankaraiah S/o.Veeraiah,
R/o.Nalgonda.

..... PETITIONER

AND

1 The Sub Inspector of Police, I-Town Police Station, Nalgonda.
2 The Inspector of Police, Vigilence Cell, Civil Supplies Department,
Nalgonda.
3 The Joint Collector, Nalgonda.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate Writ, Order or direction, preferably a writ calling for records pertaining to Crime No.173 of 1997 on the file of I- Town Police Station, Nalgonda and quash the same.

Counsel for the Petitioner: MR.JAGADEESWAR REDDY, representing MR.A.RAJASEKHAR REDDY

Counsel for the Respondent No.1: GP FOR HOME

Counsel for the Respondent No.2: Ms.P.MADHAVI DEVI, Additional Standing Counsel for Central Government

Counsel for the Respondent No.3: GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER:

The petitioner seeks a writ of Mandamus declaring the action of the first respondent in registering Crime No.173 of 1999 as illegal and further prays this Court to quash the said crime.

The petitioner is a businessman. The second respondent seized stocks of groundnut oil and groundnut seed from M/s.Mahendra Oil Mill, a proprietary concern of Nalgonda and the seized stock was entrusted to the petitioner. Subsequently, in related proceedings under Section 6-A of Essential Commodities Act, 1955 (the Act), the Joint Collector ordered confiscation of the entire seized stock of M/s.Mahendra Oil Mill to the Government. The second respondent, thereafter, reported to the Joint Collector on 17.9.1997 informing that the petitioner herein to whom the stock was entrusted, delivered the stock to K.Mahender, the proprietor of M/s.Mahendra Oil Mill. Based on the said report, the District Collector, Nalgonda by letter dated 17.9.1997 requested the first respondent to take appropriate action against the petitioner. The crime was, therefore, registered.

Sri Jagadeeswar Reddy, learned Advocate representing Sri A.Rajasekhar Reddy, learned Counsel for the petitioner placed strong reliance on Memo No.F/10555/97 dated 08.10.1997 purportedly issued by the Mandal Revenue Officer, Nalgonda (MRO). By the said memo, the petitioner was directed to release the stock entrusted to his custody on 20.10.1994 to M/s.Mahendra Oil Mill. The MRO also mentioned therein that against the orders of confiscation passed by the Joint Collector, Nalgonda, K.Mahender approached the Court and the stock was directed to be released on furnishing a bank guarantee. It is also the case of the petitioner that after receiving the memo of the MRO, he handed over the stock to K.Mahender on 08.10.1997 itself. The stock was seized on 20.10.1994. The second respondent enquired with the petitioner some time in September 1997. As per the report of the second respondent to the third respondent, even on the date of enquiry, the petitioner admitted that he released the stock to K.Mahender without there being any order of the Joint Collector. Further, except placing reliance on the memo of the

MRO dated 08.10.1997, no other document is placed before this Court to show that the Joint Collector directed the petitioner to release the stock. Be that as it is, the memo of the MRO came to be issued on 08.10.1997 and even prior to that in all probability, the petitioner released the stock to K.Mahender. This Court, however, hastens to add that whether the release of the stock by the petitioner to K.Mahender, Proprietor of M/s.Mahendra Oil Mills amounts to an offence under Section 406 of Indian Penal Code, 1860 (IPC) or not, in the background facts has now become a pure question of fact. The petitioner can raise all his defenses before the Court competent to try the offence. This is not a fit case to quash the F.I.R. The interim order passed by this Court shall stand vacated.

The writ petition is, accordingly, dismissed.

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July 19, 2005. (**V.V.S.RAO,J**)

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To

1 The Sub Inspector of Police, I-Town Police Station, Nalgonda.
2 The Inspector of Police, Vigilence Cell, Civil Supplies Department,

Nalgonda.
3 The Joint Collector, Nalgonda.

4 Two CCs to the Government Pleader for Home,

High Court Buildings, Hyderabad. (OUT)

5 Two CCs to the Government Pleader for Civil Supplies,

High Court Buildings, Hyderabad. (OUT)

6 Two C.D. Copies.